

No. 9(1)82-6Lab./4995.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Precision Tools and Knives, Tigaon Road, Ballabgarh.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD.

Reference No. 98/1982

between

SHRI BADLE RAM, AND THE MANAGEMENT OF M/S PRECISION TOOLS
AND KNIVES, TIGAON ROAD, BALLABGARH

Present.—

Nemo for the workman.

Nemo for the management.

AWARD

The State Government of Haryana referred the following dispute between the workman Shri Badle Ram and the management of M/s Precision Tools and Knives, Tigaon Road, Ballabgarh, by order No. ID/FD/13/82/10611, dated 12th March, 1982, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of service of Shri Badle Ram was justified and in order? If not, to what relief is he entitled?

Notices were issued to the parties but none appeared despite service. I presume that the parties are not interested in adjudication of the present dispute. Therefore, the same was dismissed for non-prosecution by the parties.

Dated the 4th May, 1982.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endst. No. 454, dated the 8th May, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1)82-6 Lab/4996.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s Rishi Metal Products, Jesco Colony, Jagadhri.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 295/1981

between

SHRI ROSHAN LAL, WORKMAN AND THE MANAGEMENT OF M/S RISHI METAL
PRODUCTS, JESCO COLONY, JAGADHRI

Present.—

Shri Balbir Singh, for the workmen.

Nemo for the management.

AWARD

The State Government of Haryana referred the following dispute between the workman Shri Roshan Lal workman and the management of M/s Rishi Metal Products Jesco Colony, Jagadhri, by order No. ID/YMN/48/81/44804, dated 2nd September 1981, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Roshan Lal was justified and in order ? If not, to what relief is he entitled ?

Notices of the reference were sent to the parties. The workman appeared but the management did not appear. Fresh notice was sent and Shri Kailash Mittal put in appearance on behalf of the management but on the last date none appeared on behalf of the management. Therefore the case was fixed for *ex parte* evidence of the workman. The workman stated that he had served the management for more than one year. His services was terminated on 18 March, 1981 without giving any notice or notice pay.

Believing the *ex parte* evidence of the workman, I pass my award that the workman is entitled to reinstatement with full back wages and continuity of service.

M. C. BHARDWAJ,

Dated the 7th May, 1982.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endst. No. 455, dated the 8th May, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1)82-6Lab/4997.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s Proven Plastic (P). Ltd., 44 K. M. Mathura Road, Faridabad.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 69/81

between

SHRI BASHU DEV, WORKMAN AND THE MANAGEMENT OF M/S PROVEN PLASTIC
(P) LTD., 44 K. M. MATHURA ROAD, BALLABGARH

Present :—

Shri G. S. Chaudhary, for the workman.

Shri Vijay Vishnoi, for the management.

AWARD

This State Government of Haryana referred the following dispute between the workman Shri Bashu Dev and the management of M/s Proven Plastic (P) Ltd; 44 K. M. Mathura Road, Ballabgarh, by order No. ID/FD/2/81/10729 dated 6th March, 1981, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Bashu Dev was justified and in order ? If not, to what relief is he entitled ?

Notices of reference were sent to the parties who appeared and filed their pleadings. The following issues were framed on 29th May, 1981 :—

- (1) Whether the workman abandoned his job of his own ?
- (2) Whether the dispute is not an industrial dispute ?

- (3) Whether the reference is bad on account of error in describing the name of the management?
- (4) Whether the termination of service of Shri Bashu Dev was justified and in order? If not, to what relief is he entitled?

The management made a Statement that it had never terminated the service of the concerned workman and was still ready to take him back on duty but the workman declined to rejoin his duty. Finally the parties came to a settlement and the management made payment of Rs. 2500/- to the workman in full and final of all his claims including earned wages, leave wages and compensation etc. The workman accepted the payment before the Court and made a statement about settlement.

In view of the same, I make my award that the parties had settled their disputes and the workman was not entitled to any relief.

Dated the 6th May, 1982.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 456, dated the 8th May, 1982

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana
Faridabad.

No. 9(1)82-6-Lab/5059.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the Management of M/s. Belmont Rubber Industries, 58-B, Industrial Area N.I.T. Faridabad.

**BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD.**

Reference No. 378 of 1981

between

**SHRI SUNESHWAR, WORKMAN AND THE MANAGEMENT OF M/S BELMONT RUBBER
INDUSTRIES, 58-B, INDUSTRIAL AREA, N.I.T., FARIDABAD**

Present:—

Shri Nagesh Singh, for the workman.

Shri Satish Ahuja for the management.

AWARD

The State Government of Haryana referred the following dispute between the workman Shri Suneshwar and the management of M/s. Belmont Rubber Industries, 58-B, Industrial Area, N.I.T., Faridabad, by order No. ID/FD/131/81/57144 dated 23rd November, 1981, to this Tribunal for adjudication in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Suneshwar Yadav was justified and in order? If so, to what relief is he entitled?

Notices of the reference were sent to the parties who appeared and filed their pleadings. At the last date, the representative of the management made a statement that the workman had settled his dispute with the management on his application Ex. M-2. The representative for the workman endorsed the statement of the representative for the management.

In view of the above, I made my award that the parties had settled their dispute and remains nothing for adjudication.

M. C. BHARDWAJ,

Dated 11th May, 1982

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 485, dated 11th May, 1982

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1)-82-6Lab/5062.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s Endee Woollen & Silk Mills Private Limited, 16/4, Mathura Road, Faridabad.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 30 of 1980

between

WORKMAN AND THE MANAGEMENT OF M/S ENDEE WOOLLEN & SILK MILLS PRIVATE LIMITED, 14/4, MATHURA ROAD, FARIDABAD

Present :—

Memo for the workman.

Shri O. P. Tyagi for the management.

AWARD

The State Government of Haryana referred the following dispute between the management of M/s Endee Woollen & Silk Mills Private Limited, 14/4 Mathura Road, Faridabad and its workman, by order No. ID/FD/80/12517 dated 7th March, 1980, to this Tribunal, for adjudication in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of 31 workmen shown at Annexure 'A' was justified and in order ? If not, to what relief the workmen are entitled to ?

Notices of the reference were issued to the parties who appeared and filed their pleadings. On the pleadings, the following issues were framed by my order dated 29th September, 1980 :—

- (1) Whether the dispute is an Industrial dispute ?
- (2) Whether the claim statement is incomplete and not properly signed ? If so, to what effect ?
- (3) Whether the dispute stands settled vide settlement dated 14th May, 1980 ?
- (4) Whether the termination of services of 31 workmen shown at Annexure 'A' was justified and in order ? If not, so what relief the workmen are entitled to ?

The representative for the management made a statement that out of the suspended workers, the case of only Shri Ram Lal, Shri Shiv Charan, Shri Siri Ram, Shri Balister, Shri D. K. Mishra, Smt. Kashmiri and Shri Ganesh Kumar were pending. The other had settled their dispute. In evidence, Shri Ram Lal as WW-1, Shri Shiv Charan as WW-2, Shri Siri Yadav as WW-3, Shri Ganesh Parshed as WW-4, Shri D. K. Mishra as WW-5, Shri Desh Bandhu as WW-6, Smt. Kashmiri Devi as WW-7 appeared. The management examined Shri Prem Dass Satsangi, Director as MW-1 and Shri Suleumaran, Time Keeper as MW-2. Shri Shiv Charan workman later on made a statement that he had received a sum of Rs. 1098/- from the management and settled his dispute. The management also filed the settlement of Smt. Kashmiri Devi, Shri D. K. Mishra, Shri Ganesh Kumar and Shri Balister. Now only remained the case of Shri Siri Ram workman. On the last date of hearing, non appeared for the workman. Therefore, the case was proceeded *ex parte*. In arguments, the learned representative for the management argued that the workman were retrenched from service after due compliance of the requirements of rules and laws. It was also argued that the workman had not appeared in the case to point out any illegality in the order nor he produced any evidence. Therefore, he cannot claim any relief. It was also pointed out that the management had to close one shift due to short supply of power. He referred to notice from Haryana Electricity Board Ex. M-38 to M-39 and notice from Industries Association, Faridabad Ex. M-40. He also referred notice of retrenchment Ex. M-1, Seniority list Ex. M-2, abolishing the second shift Ex. M-3, Notice in Form (P) Ex. M-5, notice issued to Shri Siri Ram workman in Ex. M-13, Postal receipt Ex. M-32, A.D. Card Ex. M-29 and amount sent by money-order Ex. M-36, postal receipt Ex. M-34.

I find that the management took action due to non-supply of power and complied with Section 25-F of the Industrial Disputes Act, 1947. In view of the above discussion, I give my award that the workman was not entitled to any relief.

Dated, 12th May, 1982.

M. C. BHARDWAJ,

Presiding Officer, Industrial
Tribunal, Haryana, Faridabad.

Endorsement No. 500, dated 13th May, 1981.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M.C. BHARDWAJ,

Presiding Officer, Industrial
Tribunal, Haryana, Faridabad.

ANNEXURE 'A'

Serial No. Name

1. Shri Ram Lal.
2. Shri Ram Ashray.
3. Shri Bilochand Pd.
4. Shri Raj Man.
5. Shri Shiv Charan.
6. Shri Bishram Yadav.
7. Shri Ummerdin.
8. Shri Rajendra Singh, S/o Shri Jamma Singh.
9. Shri Rajendra Singh., S/o Dalip Singh.
10. Shri Ramesh Lal.

- 5.3
11. Shri Ramblish Chobey.
 12. Shri Ram Murat.
 13. Shri Rajendra Pd.
 14. Shri Hafizulla.
 15. Shri Sri Ram.
 16. Shri Sudama Parshad.
 17. Shri Balister.
 18. Shri D. K. Mishra.
 19. Shri Bhim Singh.
 20. Shri Shanti Devi.
 21. Shri Kashmeri.
 22. Shri Chandaramma Pd.
 23. Shri Shiv Pujan.
 24. Shri Hassian.
 25. Shri Ashok Kumar.
 26. Shri Kamla Parshad.
 27. Shri Mahinder Kumar.
 28. Shri Desh Bandhu.
 29. Shri Inder Bahadur.
 30. Shri Gana Lal.
 31. Shri Ganges Kumar.

No. 9 (I)82-6Lab./5264.— In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s Elite Rubber Industries, SE. N. I. T. Faridabad.

**BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD.**

Reference No. 337/1981

between

**SHRI SURESH KUMAR, WORKMAN AND THE MANAGEMENT OF M/s. ELITE
RUBBER INDUSTRIES, SE-36, N. I. T., FARIDABAD**

Present:—

Shri Mohit Kumar, for the workman.
Nemo, for the management.

AWARD

The State Government of Haryana referred the following dispute between the workman Shri Suresh Kumar and the management of M/s Elite Rubber Industries, SE-36, N. I. T., Faridabad by order No. ID/FD/147/81/52152, dated 21st October, 1981, to this Tribunal, for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of service of Shri Suresh Kumar was justified and in order ? If not, to what relief is he entitled ?

Notices of the reference were issued to the parties who appeared and filed their pleadings. On the pleadings, of the parties following issues were framed by my order, dated 1st February, 1982:—
 (1) Whether the workman is gainfully employed somewhere else? If so, to what effect?
 (2) Whether the workman abandoned his job of his own?
 (3) Whether the termination of services of Shri Suresh Kumar was justified and in order? If not, to what relief is he entitled?

On the date fixed the representative of the workman made a statement that the workman had settled his dispute with the management and he did not want adjudication of his dispute.

In view of the above, I give my award that the dispute had been mutually settled and there was no dispute between the parties.

Dated, the 15th May, 1982.

M. C. BHARDWAJ,
 Presiding Officer,
 Industrial Tribunal, Haryana,
 Faridabad.

Endst. No. 514, dated 21st May, 1982.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
 Presiding Officer,
 Industrial Tribunal, Haryana,
 Faridabad.

LABOUR DEPARTMENT

The 22nd January, 1982

No. 9(1)82-6Lab. 328. — In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the management of Superintending Engineer, Sutlej-Yamuna Link, Mechanical Division No. 3, Kurukshetra, (ii) Sub-Division No. 3, Sub-Division No. 9, Kurukshetra:—

**BEFORE SHRI BANWARI LAL DALAL, PRESIDING OFFICER,
 LABOUR COURT, HARYANA, ROHTAK**

Reference No. 126 of 1980

between

**SHRI SUCHA SINGH, WORKMAN AND THE MANAGEMENT OF
 (i) SUPERINTENDING ENGINEER, SATLUJ-YAMUNA LINK MECHANICAL
 DIVISION NO. 3, KURUKSHETRA, (ii) THE EXECUTIVE ENGINEER, SATLUJ-
 YAMUNA LINK MECHANICAL DIVISION NO. 3, SUB-DIVISION 9, KURUKSHETRA**

Present:—

Shri Madhu Sudan for the workman.

Shri K.L. Suncja along with Shri R.K. Diwan for the management.

AWARD

This reference has been referred to this court by the Hon'ble Governor,—*vide* his order No. ID/Amb/9-80/30753, dated 20th June, 1980 under section 10(i)(c) of the Industrial Disputes Act for adjudication of the dispute existing between Shri Sucha Singh, workman

and the management of (i) Superintending Engineer, SYL Mechanical Division No. 3, Kurukshetra, (ii) The Executive Engineer, SYL, Mechanical Division No. 3, Sub-Division No. 9, Kurukshetra. The term of the reference was :—

Whether the termination of services of Shri Sucha Singh was justified and in order ? If not, to what relief is he entitled ?

On the receipt of the order of reference, notices as usual were sent to the parties. The parties appeared in response to the notices, filed their pleadings and the following issues were framed on the basis of their pleas :—

- (1) Whether the reference is bad for non-joinder of necessary party ? If so, to what effect ?
- (2) Whether the applicant is a workman under section 2(S) of the Industrial Disputes Act ?
- (3) Whether the Irrigation Department is not an Industry ? If so, to what effect ?
- (4) As per the term of reference ?

Issues Nos. 1, 2 and 3 were treated as preliminary. I heard the authorised representatives of the parties and have carefully seen the record and decided issues as under. I consider it necessary to decide issues No. 3 first and then No. 2.

Issue No. 3.—Industry as defined in section 2(j) and explained in AIR 1953 S.C. page 58 has a wide import and embraces in itself the irrigation department as it satisfies the tests laid down for an industry, namely, (i) systematic activity, (ii) organised by co-operation between employer and employee, (iii) for the production and distribution of goods and services calculated to satisfy human wants and wishes. The absence of profit motive or gainful objective is irrelevant be the venture in the public, joint, private or other sector. The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations. The activities carried on by the irrigation department are welfare activities and are not sovereign functions and hence is an industry. The issue is accordingly decided against the management.

Issue No. 2.—Section (2(S) defines a workman as any person employed (including an apprentice) in any industry to do any skilled or unskilled, manual or clerical, supervisory or technical for hire or reward and includes for the purposes of any proceeding under this act in relation to an industrial dispute a workman discharged, dismissed or retrenched during that dispute and the terms of employment may be expressed or implied. The workman by the nature of his duties which were manual and technical both in nature are fully covered under the definition of workman as given in section 2(S) of the I.D. Act. The issue is accordingly decided in favour of the workman.

Issue No. 1.—As a result of my finding on Issue No. 3, I hold that irrigation department of the State of Haryana is an industry. This industry is carried on by or under the authority of the State Government and in absence of proof of the authority prescribed under sub-clause (i) of clause (g) of section 2 of the Act which is reproduced as under :—

- (i) in relation to industry carried on by or under the authority of any department of the Central Government or a State Government, the authority prescribed in this behalf or where no authority is prescribed the head of the department ;

The head of the department shall be considered as an employer under the definition of that term stated as above. The parties led no evidence on this issue and it shall have to be held under the circumstances, that no authority has been prescribed by the State Government as an employer for answering the claim of the workman and the head of the department shall be taken as legally competent to answer such claim. The management representative has drawn my attention towards provisions of paragraph 1.43 of Chapter I of the P.W.D. Code relating to the Chief Engineer under the heading duties of officers of the Public Works Department on page 25 of the P.W.D. Code which is reproduced as under :

"1.43. The Chief Engineer is the administrative and professional head of the Branch of the Department in his charge, and is responsible for the efficient working of his branch. He is also the responsible professional adviser of Government in all matters relating to his charge or on which his advice may be desired. He is required to bring clearly, and faithfully before Government all subjects reserved for its decision or for that of the Central Government."

It is apparent from the aforesaid provision that the Chief Engineer is the administrative and professional head of the establishment and is responsible for the efficient working of the branch and neither the Superintending Engineer nor the Executive Engineer can be said to be the head of the irrigation department. The workman served a notice of demand on the Superintending Engineer, Satluj-Yamuna Link Mechanical Division No. 3, Kurukshetra and the Executive Engineer, SYL Mechanical Division No. 3, Sub-Division No. 9, Kurukshetra with the result that they were only impleaded as party by the Government in the reference sent to this court for adjudication. I thus hold that the reference is bad in law for non-joinder of the employer, i.e., Chief Engineer of the Irrigation Department of the State of Haryana as a necessary party in the reference. I accordingly decide this issue in favour of the respondent.

As a result of my findings on this issue, the non-impleading of the Engineer-in-Chief who is the employer has rendered the reference bad in law and thus the workman is not entitled to any relief. The reference is answered and returned accordingly.

Dated, the 30th December, 1981.

BANWARI LAL DALAL,

Presiding Officer,
Labour Court Haryana,
Rohtak.

Endorsement No. 6, dated 4th January, 1982.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the I.D. Act.

BANWARI LAL DALAL,

Presiding Officer,
Labour Court, Haryana,
Rohtak.